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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,032	01/21/2004	Steven J. Lenius	59504US002	3942

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EXAMINER

TADESSE, YEWEBDAR T

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,032

Applicant(s)

LENIUS, STEVEN J.

Examiner

Yewebdar T. Tadesse

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-20 is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 11 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 070805.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. Claim 11 is objected to because of the following informalities: in claim 11, the word "frusto-conical" is misspelled. Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "the major surface " in the claim. There is insufficient antecedent basis for this limitation in the claim. For the purpose of examination "the at least one major surface" is assumed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Kulling (US 4,740,390).

As to claim 1, Kulling discloses (see Fig 3) a coater for preparing coated particles comprising a rotatable disc (222) having a periphery and at least one major surface; and a restrictor (wall 226) mounted adjacent to the disc (222) so as to provide a gap (258)

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for the egress of coated particles, wherein the gap is formed between the at least one major surface and a flanged portion (see bottom portion of 226, where item 241 is pointed) of the restrictor proximate to the at least one major surface.

With respect to claim 2, Kulling discloses (see Fig 3) the restrictor (wall 226) having a frusto-conical shape portion (tapered portion) as a result the height of the space between the disc and the restrictor (wall 126) diminishes with radial distance from the center of the disc (222).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-2, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulling (US 4,740,390).

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As to claim 1, Kulling discloses (see Figs 1-2) a coater for preparing coated particles comprising a rotatable disc (22,122) having a periphery and at least one major surface; and a restrictor (wall 26,126) mounted adjacent to the disc (22,122) so as to provide a gap (58, 158) for the egress of coated particles. In the first and second (see Figs 1-2) embodiments Kulling lacks teaching a gap formed between the major surface and a flanged portion of the restrictor proximate to the major surface. In Fig 3, Kulling illustrates a gap (258) formed between the major surface and a flanged portion of a restrictor (wall 226) proximate to the at least one major surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a gap formed between the major surface and a flanged portion of a restrictor proximate to the at least one major surface in the embodiments 1 and 2 of Kulling to attain a sealing arrangement as taught by Kulling (see column 6, lines 38-60).

With respect to claim 2, Kulling discloses (see Fig 2 and column 5, line 57) the restrictor (wall 126) having a frusto-conical shape portion (tapered portion) as a result the height of the space between the disc and the restrictor (wall 126) diminishes with radial distance from the center of the disc (122).

Regarding claim 6, Kulling describes the disc (22, 122) can be made with a high coefficient of friction relative to the particles (i.e. roughened –column 4, line 25).

As to claim 8, Kulling discloses the gap (58,158) between the disc (22,122) and the restrictor (wall 26, 126) is adjustable (see column 4, lines 43-44).

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9. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulling (US 4,740,390) as applied to claim 1 and further in view of Hough (US 3,288,052). Although Kulling lacks teaching a dispenser for particles, an inner processing area filled with particles and dispensers (several dosing device 131 capable of dispensing particles) disposed above the disc are taught in Kulling (see column 5, lines 63-64 and column 6, lines 6-10). In any event, Hough discloses dispenser (hopper 68) for particles disposed above the disc (46). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a particle dispenser above the disc in Kulling to deliver the particles into the processing section of the coating apparatus.

Allowable Subject Matter

10. Claims 11-20 are allowed.

11. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: as to claim 7, prior art of record does not disclose or suggest a coater for preparing coated particles comprising, among others, the surface of the disc facing the restrictor comprising a polymeric foam material. With respect to claims 11-18, prior art

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of record does not disclose or suggest a coater for preparing coated retroreflective particles comprising, among others, a disc and a restrictors, wherein the restrictor includes a flange portion extending from the frusto-conical shape parallel to major surface of the disc. As to claim 19-20, prior art of record does not disclose or suggest a coater for spin coating particles comprising, among others, a disc and a barrier, wherein a gap created between a disc and a barrier, the gap including a first portion that decreases linearly with the radius of the disc and a second outer portion substantially parallel to the disc, the second portion disposed near the perimeter of the disc.

Response to Arguments

13. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yewebdar T. Tadesse whose telephone number is (571) 272-1238. The examiner can normally be reached on Monday-Friday 8:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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